

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MAUI ELECTRIC COMPANY, LIMITED)
For Approval of a Combined Heat and)
Power Agreement with Castle & Cooke)
Resorts, LLC, and Approval to)
Include the Combined Heat and Power)
System Fuel Costs in Maui Electric)
Company, Limited's Energy Cost)
Adjustment Clause.)

DOCKET NO. 2006-0186

ORDER NO. 22837

RECEIVED
2006 SEP 12 A 9:26
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed September 11, 2006
At 2 o'clock P.M.

Burley K. Kane
for Chief Clerk of the Commission

ATTEST: A True Copy
for KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

Burley K. Kane

BEFORE THE PUBLIC UTILITIES COMMISSION
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Adjustment Clause.)

Docket No. 2006-0186

Order No. 22837

ORDER

By this Order, the commission adopts with modification the Stipulated Prehearing Order submitted by MAUI ELECTRIC COMPANY, LIMITED ("MECO") and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), on August 25, 2006.¹

I.

Stipulated Prehearing Order (as Modified)

On July 14, 2006, MECO filed an Application requesting commission approval of a Combined Heat and Power ("CHP") Agreement, dated June 16, 2006 ("CHP Agreement"), with

¹The Consumer Advocate is an *ex officio* party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a). MECO and the Consumer Advocate are collectively referred to as the "Parties." The Parties' Stipulated Prehearing Order is attached as Exhibit 1 to this Order.

Castle & Cooke Resorts, LLC, governing the installation of a CHP System at the Four Seasons Resort Lanai at Manele Bay Hotel.²

Pursuant to Order No. 22667, filed on August 2, 2006, the deadline for the Parties to timely submit their proposed stipulated procedural schedule was August 24, 2006, as acknowledged by the Parties in footnote 1 of the proposed Stipulated Prehearing Order. On August 25, 2006, the Parties submitted their proposed Stipulated Prehearing Order, one day late.

The Parties have not moved for an enlargement of time claiming excusable neglect under HAR § 6-61-23(a)(2).³ Nonetheless, the commission finds that the issuance of a prehearing order will aid in the "just, speedy, and inexpensive determination of [this] proceeding[,]" consistent with

²MECO's Application, Verification, Exhibits 1 - 3, and Certificate of Service, filed on July 14, 2006 (collectively, the "Application").

³HAR § 6-61-23(a)(2) states in pertinent part:

Enlargement. (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

.

- (2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect[.]

HAR § 6-61-23(a)(2).

HAR § 6-61-1.⁴ Thus, the commission, in this instance, will adopt the Parties' proposed Stipulated Prehearing Order to govern the proceedings in this docket, with modifications.

Specifically, the commission will amend Section II, Schedule of Proceedings, by: (1) changing the deadline date for MECO to respond to the Consumer Advocate's information requests from Saturday, October 28, 2006, to Monday, October 30, 2006; and (2) correcting the deadline date for MECO to respond to the Consumer Advocate's supplemental information requests from December 7, 2007, to December 7, 2006. In addition, the commission will amend Section III(E), General, consistent with two recent commission orders governing stipulated prehearing and

⁴In Order No. 22667, the commission explained its underlying reason for instructing the Parties to timely submit a proposed stipulated procedural schedule, as follows:

The CHP Agreement will take effect upon MECO's receipt of a final decision and order from the commission that approves MECO's requested relief (if any). If MECO does not receive the commission's approval within 120 days of the last signature to the CHP Agreement, i.e., by October 14, 2006, either party may terminate the agreement by providing written notice of termination to the other party prior to the effective date.

Based on the foregoing, the commission will instruct the Parties to submit a stipulated procedural schedule for the commission's review and consideration.

Order No. 22667, at 3 (footnotes, citations, and text therein omitted).

procedural orders, respectively.⁵ Thus, Section III(E) is amended as follows:⁶

E. General

These procedures are consistent with the orderly conduct of this docket. [Pursuant to Chapter 61, Subchapter 3, Section 6-61-37 of the Commission's Rules of Practice and Procedure, this] This Stipulated Prehearing Order shall control the subsequent course[s] of these proceedings, unless modified [at or prior to the hearing to prevent manifest injustice.] by the Parties in writing and approved by the commission, or upon the commission's own motion.

Lastly, the commission notes that MECO initially requested commission action on the merits of its Application by October 14, 2006.⁷ Now, however, the proposed Stipulated Prehearing Order includes five deadlines that occur after October 14, 2006, including the deadline for the Consumer Advocate and MECO to file their respective Statements of Position (January 18, 2007 and February 8, 2007, respectively). Thus, MECO effectively waives commission action by October 14, 2006.

II.

Orders

THE COMMISSION ORDERS:

1. The proposed Stipulated Prehearing Order submitted by the Parties on August 25, 2006, attached as Exhibit 1 herein,

⁵In re Young Bros., Ltd., Docket No. 2006-0120, Order No. 22695, filed on August 7, 2006; and In re Kauai Island Util. Coop., Docket No. 2006-0134, Order No. 22666, filed on August 2, 2006.

⁶Deletions are bracketed, additions are underscored.

⁷See supra note 4.

is adopted as modified herein to govern the proceedings in this docket.

2. Section II, Schedule of Proceedings, is amended to read as follows:

Information Requests ("IRs") to MECO	October 5, 2006
MECO Responses to IRs	October 30, 2006
Supplemental IRs to MECO	November 16, 2006
MECO Responses to Supplemental IRs	December 7, 2006
Consumer Advocate Statement of Position	January 18, 2007
MECO Response to Consumer Advocate Statement of Position	February 8, 2007

3. Section III, General, is amended to read as follows:

E. General

These procedures are consistent with the orderly conduct of this docket. This Stipulated Prehearing Order shall control the subsequent course of these proceedings, unless modified by the Parties in writing and approved by the commission, or upon the commission's own motion.

DONE at Honolulu, Hawaii

SEP 11 2006

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

2006-0186.cs

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
)

MAUI ELECTRIC COMPANY, LIMITED)
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DOCKET NO. 2006-0186

For Approval of a Combined Heat and Power)
Agreement with Castle & Cooke Resorts, LLC, and)
Approval to Include the Combined Heat and Power)
System Fuel Costs in Maui Electric Company,)
Limited's Energy Cost Adjustment Clause.)
_____)

PUBLIC UTILITIES
COMMISSION

2006 AUG 25 P 3:13

FILED

STIPULATED PREHEARING ORDER NO. _____

Filed _____, 2006

At _____ o'clock _____.M.

Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

MAUI ELECTRIC COMPANY, LIMITED)

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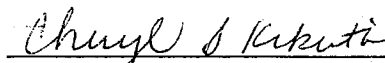
STIPULATED PREHEARING ORDER

Applicant Maui Electric Company, Limited ("MECO) and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate") hereby stipulate that the attached Stipulated Prehearing Order is mutually acceptable to each respective party.

DATED: Honolulu, Hawaii, August 25, 2006.



WILLIAM A. BONNET
Vice President
Maui Electric Company, Limited



CHERYL S. KIKUTA
Utilities Administrator
Division of Consumer Advocacy
Department of Commerce and Consumer Affairs

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MAUI ELECTRIC COMPANY, LIMITED)	DOCKET NO. 2006-0186
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Limited's Energy Cost Adjustment Clause.)	
<hr/>)	

STIPULATED PREHEARING ORDER

WHEREAS, on July 14, 2006, Maui Electric Company, Limited ("MECO"), filed an application for approval of 1) a Combined Heat and Power Agreement ("CHP Agreement") with Castle & Cooke Resorts, LLC ("C&C Resorts") dated June 16, 2006 governing the installation of a combined heat and power system ("CHP System") at C&C Resorts' hotel at Manele Bay, 2) inclusion of the CHP System fuel costs, ground transportation and related taxes in MECO's Energy Cost Adjustment Clause to the extent that the costs are not recovered in MECO's base rates, and 3) the ratemaking treatment for the CHP Agreement ;

WHEREAS, by Order No. 22667 filed on August 2, 2006, the Commission directed the parties in this docket, i.e., MECO and the DIVISION OF CONSUMER ADVOCACY OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (the "Consumer Advocate"), to meet informally to formulate a stipulated prehearing order for submission to the Commission

for approval;¹

WHEREAS, the parties have reached agreement on prehearing procedural matters and submitted a stipulated prehearing order which is acceptable to all parties.

ACCORDINGLY, IT IS ORDERED that the following Statement of Issues, Schedule of Proceedings, and procedures shall be utilized in this docket.

I. STATEMENT OF THE ISSUES

The issues in this case are:

1. Whether the CHP Agreement between MECO and C&C Resorts dated June 16, 2006 is reasonable.
2. Whether it is appropriate and reasonable to include the incurred CHP System fuel costs, ground transportation costs and related taxes in MECO's Energy Cost Adjustment Clause pursuant to Rule 6-60-6, to the extent that such costs are not included in MECO's base rates.
3. Whether the proposed ratemaking treatment for the CHP Agreement between MECO and C&C Resorts is reasonable.
4. Whether the CHP Agreement between MECO and C&C Resorts comports with the relevant ordering paragraphs of the Commission's Decision and Order Nos. 22248 and 22375, issued January 21, 2006 and April 6, 2006, respectively, Docket No. 03-0371.

¹ Order 22667 directs the parties to file a stipulated prehearing order twenty days from August 2, 2006 (i.e., August 22, 2006). Since the order was served by mail, two days are added to the prescribed period, pursuant to §6-61-21(e) of the Hawaii Administrative Rules. Thus, the due date for filing is August 24, 2006.

II. SCHEDULE OF PROCEEDINGS

Information Requests to MECO	October 5, 2006
MECO Responses to Information Requests	October 28, 2006
Supplemental Information Requests to MECO	November 16, 2006
MECO Responses to Supplemental Information Requests	December 7, 2007
Consumer Advocate Statement of Position	January 18, 2007
MECO Response to Consumer Advocate Statement of Position	February 8, 2007

Following MECO's Reply to the Consumer Advocate's Statement of Position, the parties will meet informally to attempt to reach a stipulation on issues where there is agreement and/or partial agreement, and/or establish additional procedural steps, as required. The establishment of additional procedural steps will be subject to Commission approval. If pursuant to the establishment of additional procedural steps the parties request that the Commission conduct an evidentiary hearing in this proceeding, then the parties will designate witnesses that shall 1) be responsible for sponsoring the information contained in each section of their respective Statement of Position or Reply Statement of Position, and 2) be available for cross examination. Matters related to Witnesses and Order of Examination at the Evidentiary Hearing will be established at a later date, if applicable.

III. MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS

A. Requests for Information

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Prehearing Order. If a party is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring party as soon as possible. The Parties shall then endeavor to agree upon a later date for submission of the requested information. If the Parties are unable to agree, the responding party may seek approval for the late submission from the Commission upon a showing of good cause. It is then within the Commission's discretion to approve or disapprove such late filings and take any additional action that may be appropriate, such as extending the date for the party to respond.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g., documents over 50 pages), the documents or materials may be made available for reasonable inspection and copying at a mutually agreeable designated location and time. In the event such information is available on computer diskette or other readily usable electronic medium, the party responding to the information request shall make the diskette or such electronic medium available to the other parties, and the Commission. Subject to objections that may be raised and to the extent practicable, the electronic files for spreadsheet will contain all cell references and formulae intact, and will not be converted to values prior to submission. A party shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part D, infra. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request an

identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document. In addition, a party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

For each response to an information request, the responding party should identify the person who is responsible for preparing the response as well as the witnesses who will be responsible for sponsoring the response at the evidentiary hearing.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information to some or all representatives of the party pursuant to a protective order.

A party seeking production of documents notwithstanding a party's claim of confidentiality, may file a motion to compel production with the Commission.

The responses of each party to information requests shall adhere to a uniform system of numbering agreed upon by the Parties. For example, the first information request submitted by the Consumer Advocate in this docket shall be referred to and designated as "CA-IR-1," and a

response to this information request shall be referred to and designated as "Response to CA-IR-1."

Each response shall be provided on a separate page and shall recite the entire question asked and set forth the response and/or reference the attached responsive document.

B. Matters of Public Record

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the identified document is available for inspection by the Commission and the Parties; and further provided that any party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a party proffers such document for admission as evidence in this case.

From time to time, the parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

C. Copies of Information Requests, Responses to Information Requests and Statements of Position

1. Information Requests, Responses to Information Requests, Statements of Position:

Commission	Original + 8 copies
MECO	2 copies
Consumer Advocate	2 copies

2. All documents required to be filed with the Commission shall comply with the formatting requirements prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-16 of the

Commission's Rules of Practice and Procedure and shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-15 of the Commission's Rules of Practice and Procedure.

3. Copies of all filings should be sent to the Parties by hand delivery or United States mail (first class, postage prepaid). In addition, if available, all parties shall provide copies of their filings to the other parties via diskette or e-mail in a standard electronic format that is readily available by the parties. The Parties agree to use Word 97, Word 2000 or Word 2003 as the standard programming format for filings in this case. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified. In the event a copy of a filing is delivered to a party via diskette or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing must still be delivered to such party by hand delivery or United States mail (first class, postage prepaid) as provided in Parts F.1 above.

D. Communications

Chapter 61, Subchapter 3, Section 6-61-29 of the Commission's Rules of Practice and Procedure concerning ex parte communications is applicable to any communications between a party and the Commission. However, the parties may communicate with Commission counsel on matters of practice and procedure through their own counsel or designated official.

Communications between the parties should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing party. All motions, supporting memoranda, and the like shall

also be served on opposing counsel.

E. General

These procedures are consistent with the orderly conduct of this docket. Pursuant to Chapter 61, Subchapter 3, Section 6-61-37 of the Commission's Rules of Practice and Procedure, this Stipulated Prehearing Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearing to prevent manifest injustice.

DONE at Honolulu, Hawaii, this _____ day of _____, 2006.

**PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII**

By _____
Carlito P. Caliboso, Chairman

By _____
John E. Cole, Commissioner

APPROVED AS TO FORM:

By _____
Michael Azama
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Stipulated Prehearing

Order No. _____ upon the following parties, by causing a copy hereof to be
mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
335 Merchant Street, Room 326
Honolulu, Hawaii 96813

EDWARD L. REINHARDT
PRESIDENT
MAUI ELECTRIC COMPANY, LIMITED
210 West Kamehameha Avenue
Kahului, HI 96732

WILLIAM A. BONNET
VICE PRESIDENT
MAUI ELECTRIC COMPANY, LIMITED
P. O. Box 2750
Honolulu, Hawaii 96840-0001

DEAN K. MATSUURA
DIRECTOR, REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
Honolulu, Hawaii 96840-0001

THOMAS W. WILLIAMS, JR.
PETER Y. KIKUTA
GOODSILL ANDERSON QUINN & STIFEL
1800 Alii Place
1099 Alakea Street
Honolulu, Hawaii 96813

Karen Higashi

DATED: _____

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22837 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809


EDWARD L. REINHARDT
PRESIDENT
MAUI ELECTRIC COMPANY, LIMITED
P. O. Box 398
Kahului, HI 96733-6898

WILLIAM A. BONNET
VICE PRESIDENT
MAUI ELECTRIC COMPANY, LIMITED
P. O. Box 2750
Honolulu, HI 96840-0001

THOMAS W. WILLIAMS, JR., ESQ.
PETER Y. KIKUTA, ESQ.
GOODSILL ANDERSON QUINN & STIFEL
Alii Place, Suite 1800
1099 Alakea Street
Honolulu, HI 96813

Counsel for MECO

DEAN MATSUURA
DIRECTOR, REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
Honolulu, HI 96840-0001


for Karen Higashi

DATED: SEP 11 2006